



January 22, 2018

By ECF and FAX

The Honorable Nicholas G. Garaufis
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: Batalla Vidal et al. v. Baran et al., No. 1:16-cv-04756 (NGG) (JO)

Dear Judge Garaufis:

We represent Plaintiffs in the above-captioned action and submit this letter respectfully to request an order permitting Make the Road New York (MRNY) to bring electronic interpretation equipment into the courtroom on January 30, 2018 and for any future proceedings in this case, and to use such equipment in order to make the proceedings accessible for limited English proficient (LEP) members of MRNY in attendance. Defendants state that they “consent to Plaintiffs’ request for interpretation services at any future argument date in these matters, provided that Plaintiffs’ counsel make all the necessary arrangements themselves, and that the services can be provided in such a way that does not distract from or disrupt the proceedings in any way.” We agree to these conditions. The Plaintiff States have consented as well.

MRNY filed this case on behalf of itself and our members, clients, and staff, many of whom have DACA or family members with DACA. MRNY has approximately twenty-three thousand members, most of whom are Latino immigrant New Yorkers. Many MRNY members are monolingual Spanish speakers. MRNY’s LEP members have attended prior proceedings in this matter and plan to attend future hearings as well, including the oral argument scheduled for January 30, 2018.

MRNY regularly uses electronic interpretation equipment, which we own, to allow LEP members to understand and participate in events conducted in English. The equipment consists of listening devices that LEP members affix to their ears. A single interpreter speaks quietly into a microphone interpreting the English proceedings into Spanish. Based upon exhaustive past experience, we are confident that the use of such technology will not disrupt the proceedings. We would be glad to work with court personnel to ensure the same is true in your courtroom.

This request is consistent with the First Amendment principle of public access to judicial proceedings. As the Supreme Court has explained, the First Amendment should be read “as protecting the right of everyone to attend trials” and “[f]ree speech carries with it some freedom to listen.” *Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555, 575-76 (1980); *see also Newsday LLC v. Cty. of Nassau*, 730 F.3d 156, 164 (2d Cir. 2013) (explaining that the right applies to pre-trial proceedings as well); *N.Y. Civil Liberties Union v. N.Y.C. Transit Auth.*, 684 F.3d 286, 298 (2d Cir.2012) (clarifying that this right attaches to both civil and criminal proceedings).

In order to ensure that LEP individuals have meaningful access to their First Amendment right to access and observe court proceedings, we respectfully request that this Court order:

- a. That Plaintiff Make the Road New York be permitted to bring electronic interpretation equipment into the Court on January 30, 2018 and on any other dates when proceedings may be scheduled in this matter.
- b. That Plaintiff Make the Road New York and its members be permitted to use such equipment on January 30, 2018 and on any other dates when proceedings may be scheduled in this matter.

Respectfully submitted,

/s/ Amy S. Taylor
Amy S. Taylor

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**Pro hac vice* motion forthcoming